

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**STEVE DOUGLAS GARTIN, et al.,**

**Plaintiff,**

**v.**

**No. CV 07-0385 WJ/LAM**

**CHAVEZ COUNTY BOARD OF  
COMMISSIONERS, et al.,**

**Defendants.**

**PROPOSED FINDINGS AND RECOMMENDED DISPOSITION<sup>1</sup>**

**PROPOSED FINDINGS**

**THIS MATTER** is before the Court on Plaintiff Gartin's *Motion to Add [A]dditional Plaintiffs* (Doc. 21). On December 20, 2007, the Court entered an order directing the Court Clerk to mail copies of the motion to Defendants and setting a scheduling order for filing responses and replies.<sup>2</sup> On January 2, 2008, Defendants Chaves County Board of Commissioners, Chaves County Sheriff and Chaves County Detention Center (hereinafter "Chaves County Defendants") filed *Defendant[s] Chaves County Board of Commissioners, Chaves County Sheriff and Chaves*

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<sup>1</sup>Within ten (10) days after a party is served with a copy of these Proposed Findings and Recommended Disposition, that party may, pursuant to 28 U.S.C. § 636(b)(1), file written objections to such proposed findings and recommended disposition. A party must file any objections with the Clerk of the United States District Court within the ten-day period allowed if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.

<sup>2</sup>See *Order to Serve and Scheduling Order Regarding Plaintiff's Motion for a Protective Order* (Doc. 12), *Motion to Add Additional Plaintiffs* (Doc. 21), and *Motion for Temporary Injunction* (Doc. 27) (Doc. 52).

*County Detention Center's Response to Add Additional Plaintiffs* (Doc. 62), and Defendants City of Roswell and Roswell Police Department (hereinafter "Roswell Defendants") filed *Defendants City of Roswell and Roswell Police Departments' [sic] Response to Plaintiff's July 12, 2007 Motion to Add Additional Plaintiffs* (Doc. 65). On January 3, 2008, the remaining defendants filed *Defendants Fifth Judicial District Attorneys, District Attorney Michael Sanchez, Chaves County Magistrate Court, the Honorable Magistrate Court Judge Robert B. Corn, the New Mexico Department of Probation, and the Honorable Judge Charles C. Currier's Response to Plaintiffs' Motion to Add Additional Plaintiffs* (Doc. 21) (Doc. 72).<sup>3</sup> For the reasons set forth below, the undersigned recommends that Plaintiff Gartin's *Motion to Add [A]dditional Plaintiffs* (Doc. 21) be **DENIED**. In deciding this matter, the Court has considered the foregoing motion, all Defendants' responses, the record of this case and relevant law.

In his motion, Plaintiff Gartin, who is proceeding *pro se*, states that his motion "amends the above enumerated Class-Action [sic] Civil Rights action to include" three additional plaintiffs.<sup>4</sup> Chaves County Defendants argue that this motion should be denied because Plaintiff Gartin did not provide with his motion a copy of the proposed amendment adding additional parties, in violation of D.N.M. LR-Civ.15.1.<sup>5</sup> Roswell Defendants argue that the motion should be denied because

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<sup>3</sup>This response by the remaining defendants states that they adopt the arguments set forth by the Chaves County and Roswell Defendants and that any amendment to Plaintiff Gartin's claims would be futile as to any claims against them because the undersigned has recommended that they be dismissed from the case. See *Proposed Findings and Recommended Disposition* (Docs. 54 and 55), which have been adopted by the Court in *Order Adopting Magistrate Judge's Proposed Findings and Recommended Disposition* (Doc. 54) (Doc. 83) and *Order Adopting Magistrate Judge's Proposed Findings and Recommended Disposition* (Doc. 55) (Doc. 84).

<sup>4</sup>See *Motion to Add [A]dditional Plaintiffs* (Doc. 21) at 1.

<sup>5</sup>See *Defendant[s] Chaves County Board of Commissioners, Chaves County Sheriff and Chaves County Detention Center's Response to Add Additional Parties* (Doc. 62) at 2.

(1) Plaintiff Gartin is not an attorney and thus cannot bring this action on behalf of additional plaintiffs; and (2) the motion does not comply with Fed. R. Civ. P. 20 because the additional plaintiffs do not assert a right to relief, and the motion does not state what question of law or fact common to Plaintiff Gartin and the additional plaintiffs will arise in the action.<sup>6</sup>

First, the Court notes that this motion is moot as to Gregory Scott Corn, because Mr. Corn has been dismissed from the case.<sup>7</sup> Second, the Court finds that Plaintiff Gartin cannot bring this action on behalf of other parties as a class action because he is not an attorney. *See Fymbo v. State Farm Fire and Casualty Co.*, 213 F.3d 1320, 1321 (10th Cir. 2000) (“A litigant may bring his own claims to federal court without counsel, but not the claims of others.”) (citing 28 U.S.C. § 1654). Finally, Plaintiff Gartin has not met the requirements of Fed. R. Civ. P. 20(a)(1), which allows parties to join in an action as plaintiffs if: “(A) they assert any right to relief jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or fact common to all plaintiffs will arise in the action.” Here, the individuals named by Plaintiff Gartin as additional plaintiffs do not assert any right to relief in the motion, and the motion does not state what question of law or fact common to the parties will arise in the action. Thus, these parties should not be joined in the action. *See Sparks v. Foster*, 2006 WL 446081, \*1 (D. Colo. 2006) (explaining that if a party fails to satisfy either of the preconditions for joinder under Fed. R. Civ. P. 20, the parties should not be joined).

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<sup>6</sup>*Defendants City of Roswell and Roswell Police Departments’ [sic] Response to Plaintiff’s July 12, 2007 Motion to Add Additional Plaintiffs* (Doc. 65) at 2-3.

<sup>7</sup>*See Memorandum Opinion and Order* (Doc. 51) at 3-4, adding Mr. Corn to the docket as a plaintiff and ordering him to pay the filing fee or submit an application for leave to proceed *in forma pauperis*, and *Order* (Doc. 80) at 1-2, where Mr. Corn was dismissed from the case for failure to comply with the Court’s order.

**RECOMMENDED DISPOSITION**

For the foregoing reasons, the Court recommends that Plaintiff Gartin's *Motion to Add*  
*[A]dditional Plaintiffs* (Doc. 21) be **DENIED**.

  
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**HONORABLE LOURDES A. MARTÍNEZ**  
**UNITED STATES MAGISTRATE JUDGE**